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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 10/575,801 | 11/30/2006 | Matthew W. Weismiller | 7175-202433 | 5179 |

69781 7590 12/09/2009

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| EXAMINER | |
|---|---|
| PASS, NATALIE | |
| **ART UNIT** | **PAPER NUMBER** |
| 3686 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 12/09/2009 | ELECTRONIC |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

indocket@btlaw.com

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/575,801 | WEISMILLER ET AL. | |
| | Examiner | Art Unit | |
| | Natalie A. Pass | 3686 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *13 April 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *26 January 2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

## DETAILED ACTION

### *Notice to Applicant*

1. This communication is in response to the application filed 13 April 2006. Claims 1-20 are pending. The Information Disclosure Statement received 26 January 2007 has been entered and considered.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A) Claims 1 and 8 recite limitations in "means plus function" language. The scope of a "means" limitation is defined as the corresponding structure or material set forth in the written description and equivalents thereof. See MPEP § 2181 through § 2186. If there is no disclosure of structure, material or acts for performing the recited function in the specification, the claim limitation lacks specificity, and fails to satisfy the requirements of 35 U.S.C. 112, second paragraph.

Recent court cases have held that simply reciting "software" without providing some detail about the means to accomplish the function is not enough. *See Aristocrat Techs. Austl. Pty v. Int'l Game Tech.*, __ F.3d __, 2008 U.S. App. LEXIS 6472, at *10 [86 USPQ2d 1235] (Fed. Cir. Mar. 28, 2008) ("For a patentee to claim a means for performing a particular function and then to disclose only a general purpose computer as the structure designed to perform that function amounts to pure functional claiming. Because general purpose computers can be programmed to perform very different tasks in very different ways, simply disclosing a computer as the structure designated to perform a particular function does not limit the scope of the claim to 'the corresponding structure, material, or acts' that perform the function, as required by section 112 paragraph 6."). The Court in Aristocrat did not require a listing of source code or a highly detailed description of the algorithm to be used to achieve the claimed functions in order to satisfy 35 U.S.C. §112 paragraph 6. It did require, however, the disclosure of at least the algorithm that transformed the general purpose microprocessor to a "special purpose computer programmed to perform the disclosed algorithm." *WMS Gaming*, 184 F.3d at 1349. Thus the patent must disclose, at least to the satisfaction of one of ordinary skill in the art, enough of an algorithm or description of structure corresponding to the claimed function to provide the necessary structure under 35 U.S.C. §112 paragraph 6.

In the instant case, the "means plus *function*" language recited in claims 1 and 8 lacks sufficient disclosed structure under 112, sixth paragraph, and is therefore indefinite under 112, second paragraph.

B) Claims 2-7, 9-13 incorporate the features of independent claims 1, 8 through dependency and are also rejected.

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either:

(a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or

(b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-2, 4, 6-11, 14-15, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Rosner, U.S. Patent Application Publication Number 2003/0022696.

(A) As per claims 1-2, 4, Rosner teaches a combined communication and asset locating and tracking system, comprising:

a substantially wireless high resolution locating and tracking system including a plurality of receivers configured to be located in different locations in a facility, the different locations including at least one of floors, rooms, corridors, common areas and portions thereof within the facility (Rosner; paragraphs [0019],[0027], [0032], [0039]);

a substantially wireless communication system including a plurality of access points and voice-activated communicators (Rosner; paragraphs [0030], [0039]); and

means for linking the locating and tracking system and the communication system including means for determining a specific location of an asset using a voice command (Rosner; paragraph [0039]); and

wherein the voice-activated communicators are completely hands-free operable by including means for detecting an audible cue to activate the communicator (Rosner; paragraphs [0016],[0044]); and

wherein the audible cue is a verbal command (Rosner; paragraphs [0030], [0039]).

(B) As per claims 6-7, Rosner teaches a system as analyzed and discussed in claim 1 above,

further comprising means for linking the locating and tracking system and the communication system to "personalization" (reads on "non-location") information about an asset (Rosner; paragraph [0034]); and

wherein the location is a sub-area within a room of the facility (Rosner; paragraph [0041]) Examiner interprets Rosner's teachings of "automatically authenticate an individual at any computer in the designated area as soon as the individual sits down" to teach a form of "a sub-area within a room of the facility."

(C) As per claim 14, Rosner teaches a method for monitoring the location of persons or assets, comprising the steps of:

assigning a unique identifier to each of a plurality of tags (Rosner; paragraph [0034]);

assigning each tag to a person or asset (Rosner; paragraph [0034]);

positioning a plurality of receivers at different locations in a facility (Rosner; paragraphs [0019],[0027], [0032]);

receiving at the receivers unique identifier transmissions from the tags (Rosner; paragraphs [0019],[0027], [0032]);

assigning a plurality of communicators to a plurality of persons (Rosner; paragraphs [0019],[0027], [0032]);

assigning a plurality of transceivers to different locations in the facility (Rosner; paragraphs [0019],[0027], [0032]);

receiving at a transceiver a voice command from one of the plurality of persons, the voice command relating to at least one of the persons and assets (Rosner; paragraphs [0030], [0039]);

linking the voice command to the corresponding tag identifier information (Rosner; paragraphs [0017], [0039]); and

identifying the at least one person or asset in response to the voice command (Rosner; paragraphs [0017], [0039]).

(D) As per claims 15, 20, Rosner teaches a method as analyzed and discussed in claim 14 above further comprising the steps of:

detecting the presence of a tag proximate to a secure area (Rosner; paragraphs [0017], [0039]);

detecting a voice command requesting access to the secure area (Rosner; paragraphs [0030], [0039]);

identifying the person associated with the detected tag (Rosner; paragraphs [0030], [0039]);

comparing a voice characteristic of the detected voice command with a known voice characteristic of the person associated with the detected tag (Rosner; paragraphs [0030], [0038], [0039]); and

granting access to the entry of the secure area if the voice characteristic of the detected voice command matches the known voice characteristic of the person associated with the detected tag (Rosner; paragraphs [0012], [0017], [0039]); and

identifying the location of the person or asset based on the voice command (Rosner; paragraph [0039]).

(E) Claims 8-11 repeat the features of claims 14, 2, 1, 6, respectively, and are therefore rejected for the same reasons given above in the rejections of claims 14, 2, 1, 6, and incorporated herein.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 5, 16-17, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosner, U.S. Patent Application Publication Number 2003/0022696, as applied to claims 14-15 above, and further in view of Werb U.S. Patent Number 6456239.

(A) As per claim 5, Rosner teaches a system as analyzed and discussed in claim 1 above, But fails to explicitly disclose a system further comprising means for generating an alarm if an asset is near an unauthorized area. Werb teaches a system further comprising means for generating an alarm if an asset is near an unauthorized area (Werb; column 14, lines 40-42, column 36, lines 44-49).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Rosner to include these limitations, as taught by Werb, with the motivations of "determining the location of assets, such as personnel, equipment, vehicles, inventory, etc … [...] ..." (Werb; column 1, lines 15-21).

(B) As per claims 16-17, Rosner teaches a method as analyzed and discussed in claims 14-15 above, further comprising the steps of:

initiating a voice message relating to the location of the tag (Rosner; paragraphs [0012], [0017], [0039]).

Rosner fails to explicitly disclose a method further comprising the steps of:

continuously tracking the location of a tag; and

determining whether the tag has entered an unauthorized location.

However, the above features are well-known in the art, as evidenced by Werb.

In particular, Werb teaches a method further comprising the steps of:

continuously tracking the location of a tag (Werb; column 19, lines 40-45); and

determining whether the tag has entered an unauthorized location (Werb; column 14, lines 40-42, column 36, lines 44-49).

The motivations for combining the respective teachings of Rosner and Werb are as given in the rejection of claim 5 above, and incorporated herein.

8. Claims 12-13, 18-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosner, U.S. Patent Application Publication Number 2003/0022696, as applied to claim 14 above, and further in view of Shostak, U.S. Patent Number 6901255.

(A) As per claims 12-13, Rosner teaches a system as analyzed and discussed in claim 8 above but fails to disclose

wherein the tags and receivers operate using a first substantially wireless transmission means and the communicators and receivers operate using a second substantially wireless transmission means; and

wherein the tags and receivers operate using one of radio frequency and infrared transmissions and the communicators and transceivers operate using a voice over IP communications protocol.

However, the above features are well-known in the art, as evidenced by Shostak.

In particular, Shostak teaches a system

wherein the tags and receivers operate using a first substantially wireless transmission means and the communicators and receivers operate using a second substantially wireless transmission means (Shostak; column 4, lines 14-24); and

wherein the tags and receivers operate using one of radio frequency and infrared transmissions and the communicators and transceivers operate using a voice over IP communications protocol (Shostak; column 4, lines 14-24); Examiner interprets Shostak's teachings of the "voice-controlled wireless communications system in accordance with the invention has greater utility since it can be implemented using various different communication protocols" to teach of form of this limitation.

(B) As per claims 18-19, Rosner teaches a method as analyzed and discussed in claim 14 above.

Rosner fails to explicitly disclose a method

wherein the voice command includes a command directed to turning an asset on or off; and further comprising the step of turning the asset on or off based on the voice command.

However, the above features are well-known in the art, as evidenced by Shostak.

In particular, Shostak teaches a method

wherein the voice command includes a command directed to turning an asset on or off (Shostak; column 3, lines 16-20); and

further comprising the step of turning the asset on or off based on the voice command (Shostak; column 3, lines 32-35).

The motivations for combining the respective teachings of Rosner and Shostak are as given in the rejection of claim 12 above, and incorporated herein.

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rosner, U.S. Patent Application Publication Number 2003/0022696, as applied to claims 1-2 above, and further in view of Squibbs, U.S. Patent Application Publication Number 2002/0077772.

(A) As per claim 3, Rosner teaches a system as analyzed and discussed in claims 1-2 above.

Rosner fails to explicitly disclose wherein the audible cue is a clapping sound.

However, the above features are well-known in the art, as evidenced by Squibbs.

In particular Squibbs discloses a system wherein the audible cue is a clapping sound (Squibs paragraph [0103]).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Rosner to include these limitations, as taught by Squibbs, with the motivations of providing a way of determining the positions of both devices and users of the system (Squibbs; paragraphs [0103]-[0105], [0111]).

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The cited but not applied references, Weng et al, U.S. Patent Application Publication Number 2003/0146932, Rapaport et al., U.S. Patent Number 7034691, Taylor et al., U.S. Patent

Number 5926090, Schuman, U.S. Patent Application Publication Number 2002/0186136, teach the environment of locating assets in a facility.

11. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**Washington D.C. 20231**

or faxed to: **(571) 273-8300**.

For informal or draft communications, please label "PROPOSED" or "DRAFT" on the front page of the communication and do NOT sign the communication.

After Final communications should be labeled "Box AF."

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Pass whose telephone number is (571) 272-6774. The examiner can normally be reached on Monday through Thursday from 9:00 AM to 6:30 PM. The examiner can also be reached on alternate Fridays.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or (571) 272-1000.

/N. A. P./
Examiner, Art Unit 3686
December 2, 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686